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October 4, 1994

BY OVERNIGHT MAIL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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FCC MAIL ROOM


Re: GN Docket No. 94-90

Dear Mr. Caton:

Enclosed for filing please find an original plus nine (9) copies of the Comments of Rochester Tel Cellular Holding Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,


Michael J. Shortley, III

cc: Chief, Land Mobile and
Microwave Division

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Service

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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OCT 05 1994

In the Matter of)

)

FCC MAIL ROOM

Eligibility for the Specialized)

Mobile Radio Services)

GN Docket No. 94-90

and Radio Services in the)

220-222 MHz Land Mobile Band)

and Use of Radio Dispatch)

Communications)

**COMMENTS OF ROCHESTER TEL
CELLULAR HOLDING CORPORATION**

Rochester Tel Cellular Holding Corporation ("RTCHC") submits these comments in response to the Commission's Notice initiating this proceeding.¹ The Commission proposes to eliminate the existing restrictions that preclude wireline common carriers from holding controlling interests in specialized mobile radio ("SMR"), including 220 MHz commercial service, licensees and in prohibiting mobile radio service licensees from offering dispatch services.² The Commission should adopt its proposals in their entirety. In addition, the Commission should decline to adopt any more restrictive safeguards that it adopted in its *Broadband PCS Order*.³

¹ *Eligibility for the Specialized Mobile Radio Services and Radio Services in the 220-222 MHz Land Mobile Band and Use of Radio Dispatch Communications*, GN Dkt. 94-90, Notice of Proposed Rulemaking, FCC 94-202 (released Aug. 11, 1994) ("Notice").

² *Id.*, ¶ 1.

³ *Amendment of the Commission's Rules To Establish New Personal Communications Services*, GN Dkt. 90-314, Second Report and Order, 8 FCC Rcd 7700 (1993) ("Broadband PCS Order"), recon., Memorandum Opinion and Order, FCC 94-144 (released June 13, 1994).

The Commission correctly notes that legislative and competitive changes since the prohibitions were first adopted twenty years ago render them unnecessary and anti-competitive. The SMR industry has grown substantially in the past twenty years. The AT&T divestiture occurred over ten years ago. Moreover, much of the spectrum for SMR services has already been licensed. Thus, the concerns that led the Commission to adopt the prohibitions -- e.g., discriminatory conduct by an entrenched Bell System against participants in a fledgling industry -- no longer exist.⁴

Moreover, the Commission has recently adopted rules implementing those provisions of the Omnibus Budget Reconciliation Act of 1993 ("OBRA") concerning the regulatory treatment of mobile services.⁵ In adopting these rules, the Commission has advanced a major goal of OBRA, namely, parity in the regulation of similarly-situated mobile service providers. The prohibition against the control of SMR licensees by wireline common carriers is, on its face, flatly inconsistent with that goal.

The Commission has also permitted wireline carriers to hold PCS licenses which, like SMR licenses, are now classified as commercial mobile radio services.⁶ Continuing the SMR prohibition would also be flatly inconsistent with the Commission's decisions in the PCS context, as the Commission itself correctly recognizes.⁷

⁴ See Notice, ¶¶ 16-21.

⁵ *Regulatory Treatment of Mobile Services*, GN Dkt. 93-252, Second Report and Order, 9 FCC Rcd. 1411 (1994).

⁶ *Broadband PCS Order*, 8 FCC Rcd. at 7751-52, ¶ 126.

⁷ Notice, ¶ 17.

Similarly, the dispatch prohibition makes little sense in today's environment. To the extent that cellular carriers wish to offer dispatch services, there is no competitive or policy reason to preclude them from doing so.⁸

Additional safeguards -- beyond the existing accounting, cost allocation and interconnection requirements -- are unnecessary. In its *Broadband PCS Order*, the Commission concluded that exchange carrier participation in the provision of PCS would serve the public interest without the need for additional conditions or restrictions.⁹ There is no reason for the Commission to reach a different conclusion with respect to SMR and dispatch services.

⁸ See *id.*, ¶¶ 30-31.

For this reason, there is no reason for the Commission to adopt its alternative proposals to "sunset" the prohibition (*id.*, ¶ 32) or to require cellular carriers to offer dispatch services on a secondary basis only (*id.*, ¶ 33).

⁹ *Broadband PCS Order*, 8 FCC Rcd. at 7751-52, ¶ 126.

For the foregoing reasons, the Commission should adopt the proposals contained in the Notice in their entirety.

Respectfully submitted,



Michael J. Shortley, III

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October 4, 1994